entities, i.e., small businesses, small government jurisdictions. We do not believe that the establishment of these rules will have any negative impacts on small entities because the procedures codified here will only serve to eliminate errors and confusion about the applicability of the 1983 North American Datum. Finally, no reporting or record-keeping requirements are imposed on any small entity as the result of this amendment to the danger zone/restricted area regulations. Therefore, we have determined that this proposed rule, if and when finalized, will not have a significant economic impact on a substantial number of small entities and a regulatory flexibility analysis is not warranted.

List of Subjects in 33 CFR Part 334.

Navigation, Waterways, Transportation.

Accordingly, we are proposing to amend part 334 as follows:

PART 334—DANGER ZONE AND RESTRICTED AREA REGULATIONS

1. The authority citation for part 334 continues to read as follows:

Authority: 40 Stat. 266 (33 U.S.C. 1) and 40 Stat. 892 (33 U.S.C. 3)

2. Section 334.6 is added as follows:

§ 334.6 Datum.

(a) Geographic coordinates expressed in terms of latitude or longitude, or both, are not intended for plotting on maps or charts whose reference horizontal datum is the North American Datum of 1983 (NAD 83), unless such geographic coordinates are expressly labeled NAD 83. Geographic coordinates without the NAD 83 reference may be plotted on maps or charts referenced to NAD 83 only after application of the appropriate corrections that are published on the particular map or chart being used.

(b) For further information on NAD 83 and National Service nautical charts please contact: Director, Coast Survey (N/CG2), National Ocean Service, NOAA, 1315 East-West Highway, Station 6147, Silver Spring, MD 20910–3282.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 95–1661 Filed 1–23–95; 8:45 am]

BILLING CODE 3710–92–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[SC01–FRL–5143–4]

Clean Air Act Proposed Full Approval of Operating Permits Program; State of South Carolina

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed full approval.

SUMMARY: EPA proposes to grant full approval to the Operating Permits Program submitted by the State of South Carolina for the purpose of complying with Federal requirements for an approvable state program to issue operating permits to all major stationary sources, and to certain other sources.

DATES: Comments on this proposed action must be received in writing by February 23, 1995.

ADDRESSES: Written comments on this action should be addressed to Carla E. Pierce, Regional Program Manager, Title V Program Development Team, Air Programs Branch, at the EPA Region 4 office listed.

Copies of the State's submittal and other supporting information used in developing the proposed full approval are available for inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region 4, 345 Courtland Street, NE., Atlanta, GA 30365. Interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

FOR FURTHER INFORMATION CONTACT: Scott Miller, Title V Program Development Team, Air Programs Branch, Air Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, GA 30365, (404) 347–3555 extension 4153.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

A. Introduction

As required under title V of the Clean Air Act Amendments of 1990, (Clean Air Act (''Act'') sections 501–507), EPA has promulgated rules that define the minimum elements of an approvable State operating permits program and the corresponding standards and procedures by which the EPA will approve, oversee, and withdraw approval of state operating permits programs (see 57 FR 32250 (July 21, 1992)). These rules are codified at 40 Code of Federal Regulations (CFR) part 70. Title V requires states to develop, and submit to EPA, programs for issuing these operating permits to all major stationary sources and to certain other sources.

The Act requires that states develop and submit these programs to EPA by November 15, 1993, and that EPA act to approve or disapprove each program within one year after receiving the submittal. EPA's program review occurs pursuant to section 502 of the Act and the part 70 regulations, which together outline criteria for approval or disapproval. Where a program substantially, but not fully, meets the requirements of part 70, EPA may grant the program interim approval for a period of up to two years. If EPA has not fully approved a program by two years after the November 15, 1993 date, or by the end of an interim program, it must establish and implement a Federal operating permits program.

II. Proposed Action and Implications

A. Analysis of State Submission

1. Support Materials

Pursuant to section 502(d) of the Act, the governor of each state must develop and submit to the Administrator an operating permits program under state or local law or under an interstate compact meeting the requirements of title V of the Act. The South Carolina Department of Health and Environmental Control (DHEC) requested, under the signature of Governor Carroll A. Campbell, Jr., approval of its operating permits program with full authority to administer the program submittal in all areas of the State of South Carolina, including the Catawba Indian Reservation.

The South Carolina submittal, provided as Section II–''Complete Program Description,'' addresses 40 CFR 70.4(b)(1) by describing how DHEC intends to carry out its responsibilities under the part 70 regulations. The program description has been deemed to be sufficient for meeting the requirement of 40 CFR 70.4(b)(1).

Pursuant to 40 CFR 70.4(b)(3), the Governor is required to submit a legal opinion from the Attorney General (or the attorney for the state air pollution control agency that has independent legal counsel) demonstrating adequate authority to carry out all aspects of a title V operating permits program. The State of South Carolina submitted an Attorney General's Opinion demonstrating adequate legal authority as required by Federal law and regulation.

Section 70.4(b)(4) requires the submission of relevant permitting program documentation not contained in the regulations, such as permit application forms, permit forms and relevant guidance to assist in the State's implementation of its permit program. Appendix A of the DHEC submittal includes the permit application forms and permit forms, and it has been determined that the application forms and the permit forms meet the requirements of 40 CFR 70.5(c) and 40 CFR 70.6, respectively.

2. Regulations and Program Implementation

The State of South Carolina has submitted Chapter 61–62.70 ''Title V Operating Permit Program'' for implementing the State part 70 program as required by 40 CFR 70.4(b)(2). Sufficient evidence of its procedurally correct adoption is included in Appendix H of the submittal. Copies of all applicable State statutes and regulations that authorize the part 70 program, including those governing State administrative procedures, were submitted with the State's program.

The South Carolina operating permits regulations follow part 70 very closely. The following requirements, set out in EPA's part 70 operating permits program review, are addressed in Section II of the State's submittal:

(A) Applicability requirements, (40 CFR 70.3(a)): 61–62.70.3(a);

(B) Permit applications, (40 CFR 70.5): 61–62.70.5;

(C) Provisions for permit content, (40 CFR 70.6): 61–62.70.6; Standard permit requirements: (40 CFR 70.6(a)): 61–62.70.6(a); Permit duration: (40 CFR 70.6(a)(2)): 61–62.70.6(a)(2); Monitoring and related recordkeeping and reporting requirements: (40 CFR 70.6(a)(3)): 61–62.70.6(a)(3); Compliance requirements: (40 CFR 70.6(c)): 61–62.70.6(c);

(D) Operational flexibility provisions, (40 CFR 70.4(b)(12)): 61–62.70.7(e)(5);

(E) Provisions for permit issuance, renewals, reopenings and revisions, including public participation (40 CFR 70.7): 61–62.70.7; and

(F) Permit review by EPA and affected State (40 CFR 70.8): 61–62.70.8. The South Carolina Pollution Control Act, section 48–1–320, section 48–1–330, and section 48–1–50 satisfy the requirements of 40 CFR 70.11, for enforcement authority.

DHEC regulations contain a definition of the phrase ''title I modification'' which does not include changes which occur under the State's minor new source review regulations approved into the South Carolina State Implementation Plan (SIP). On August 29, 1994, EPA proposed revisions to the interim approval criteria in 40 CFR 70.4(d) to, among other things, allow State programs with a more narrow definition of ''title I modification'' to receive interim approval (59 FR 44572). The Agency also solicited public comment on the proper interpretation of ''title I modifications'' (59 FR 44573). The Agency stated that if, after considering the public comments, it continues to believe that the phrase ''title I modifications'' should be interpreted as including minor NSR changes, it would revise the interim approval criteria as needed to grant states that adopted a narrower definition interim approval. EPA intended to finalize its revisions to the interim approval criteria under 40 CFR 70.4(d) before taking final action on part 70 programs. However, this is no longer possible. Until the revision to the interim approval criteria is promulgated, EPA's choices are to either fully approve or disapprove the narrower ''title I modification'' definition in states such as South Carolina. For the reasons set forth below, EPA believes that proposing disapproval for such programs at this time solely because of this issue would be inappropriate.

First, EPA has not yet conclusively determined that a narrower definition of ''title I modification'' is incorrect and thus a basis for disapproval or interim approval. Second, EPA believes that the South Carolina program should not be considered for disapproval because EPA itself has not yet been able resolve this issue through rulemaking and is solely responsible for the confusion on what constitutes a ''title I modification'' for part 70 purposes. Moreover, proposing disapproval for programs from states such as South Carolina that submitted their programs to EPA on or before the November 15, 1993, statutory deadline could lead to the perverse result that these states would receive disapprovals, while states which were late in submitting programs could take advantage of revised interim approval criteria if and when these criteria become final. In effect, states would be severely penalized for having made timely program submissions to EPA. Finally, proposing disapproval of a State program for a potential problem that primarily affects permit revision procedures would delay the issuance of part 70 permits, hampering state/Federal efforts to improve environmental protection through the operating permits system. For further rationale on EPA's position on the determination of what constitutes a ''title I modification,'' see EPA's final interim approval of the State of Washington's part 70 operating permits program (59 FR 55813, November 9, 1994).

For the reasons mentioned above, EPA is proposing approval of the South Carolina program's use of a narrower definition of ''title I modification'' at this time. DHEC has issued a commitment to expeditiously revise the State's definition of ''title I modification'' if it is found at a later date to be inconsistent with EPA's revised definition in the rulemaking listed above.

DHEC established a process subject to EPA approval to determine insignificant activities and emissions levels in Regulation 61–62.70.5(c). Regulation 61–62.70.5(c) includes activities/emissions sources that are not required to be included in the permit application. Regulation 61–62.70.5(c) includes activities/emissions sources that must be listed in the permit application, but whose emissions do not have to be quantified. Notwithstanding Regulation 61–62.70.5(c), applicants are required to include all emission sources and quantify emissions if needed to determine major source compliance with an applicable requirement, or to collect any permit fee.

Part 70 of the operating permits regulations requires prompt reporting of deviations from the permit requirements. Section 70.6(a)(3)(iii)(B) requires the permitting authority to define prompt in relation to the degree and type of deviation likely to occur and the applicable requirements. Although the permit program regulations should define prompt for purposes of administrative efficiency and clarity, an acceptable alternative is to define prompt in each individual permit. EPA believes that prompt should generally be defined as requiring reporting within two to ten days of the deviation. Two to ten days is sufficient time in most cases to protect public health and safety as well as to provide a forewarning of potential problems. For sources with a low level of excess emissions, a longer time period may be acceptable. However, prompt reporting must be more frequent than the semiannual reporting requirement under 40 CFR 70.6(a)(3)(iii)(A) which is a distinct reporting obligation. Where ''prompt'' is defined in the individual permit, but not in the program regulations, EPA may veto permits that do not require sufficiently prompt reporting of deviations. The State of South Carolina has not defined prompt in its program regulations with respect to reporting of

deviations. DHEC has committed to include the following standard permit condition in each title V permit which defines ''prompt'':

> Deviations from limits or specific conditions contained in this permit, including those attributable to upset conditions, shall be reported promptly (within 24 hours) to the EQC District office. A written report, including the probable cause of such deviations and any corrective actions or preventive measures taken, shall be submitted within thirty days (30) to the Department.

South Carolina has the authority to issue a variance from requirements imposed by State law. Sections 48–1–50(5) and 48–1–100 of the Pollution Control Act allow the permitting board discretion to grant relief from compliance with State rules and regulations. EPA regards this provision as wholly external to the program submitted for approval under part 70, and consequently is proposing to take no action on this provision of State law. EPA has no authority to approve provisions of State law, such as the variance provision referred to, that are inconsistent with the Clean Air Act. EPA does not recognize the ability of a permitting authority to grant relief from the duty to comply with a federally enforceable part 70 permit, except where such relief is granted through procedures allowed by part 70. EPA reserves the right to enforce the terms of the part 70 permit where the permitting authority purports to grant relief from the duty to comply with those terms in a manner inconsistent with part 70 procedures.

The complete DHEC program submittal and the Technical Support Document are available for review for more detailed information.

3. Permit Fee Demonstration

The DHEC has opted to charge the presumptive minimum fee ($25/ton + Consumer Price Index (CPI) from 1989). The fees will be based on a stationary source's actual emissions using actual operating hours, production rates, in-place control equipment, and types of material processed, stored, or combusted during the period of calculation. EPA has determined that South Carolina's fee demonstration is adequate and meets the requirements of 40 CFR 70.9.

4. Provisions Implementing the Requirements of Other Titles of the Act

a. Authority and/or commitments for section 112 implementation. South Carolina has identified in its title V program submittal broad legal authority to incorporate into permits and enforce all applicable requirements; however, South Carolina has also indicated that additional regulatory authority may be necessary to carry out specific section 112 activities. South Carolina has therefore supplemented its broad legal authority with a commitment to ''expeditiously seek additional authority as necessary to incorporate into title V permits any future applicable requirements promulgated by EPA to enable title III implementation through permit issuance.'' EPA has determined that this commitment, in conjunction with South Carolina's broad statutory and regulatory authority, adequately assures compliance with all section 112 requirements. EPA regards this commitment as an acknowledgement by South Carolina of its obligation to obtain further regulatory authority as needed to issue permits that assure compliance with section 112 applicable requirements. This commitment does not substitute for compliance with part 70 requirements that must be met at the time of program approval.

EPA interprets the above legal authority and commitment to mean that South Carolina is able to carry out all section 112 activities. For further rationale on this interpretation, please refer to the Technical Support Document accompanying this proposed full approval and the April 13, 1993, guidance memorandum titled ''Title V Program Approval Criteria for Section 112 Activities,'' signed by John Seitz.

b. Implementation of section 112(g) upon program approval. As a condition of approval of the part 70 program, South Carolina is required to implement section 112(g) of the Act from the effective date of the part 70 program. Imposition of case-by-case determinations of maximum achievable control technology (MACT) or offsets under section 112(g) will require the use of a mechanism for establishing federally enforceable restrictions on a source-specific basis. EPA is proposing to approve South Carolina's preconstruction permitting program found in Regulation 62.1, Section II of the South Carolina State Implementation Plan (SIP) under the authority of title V and part 70 solely for the purpose of implementing section 112(g) during the transition period between title V approval and adoption of a State rule implementing EPA's section 112(g) regulations. EPA believes this approval is necessary so that South Carolina has a mechanism in place to establish federally enforceable restrictions for section 112(g) purposes from the date of part 70 approval. The scope of this approval is narrowly limited to section 112(g), and does not confer or imply approval for purposes of any other provision under the Act. If South Carolina does not wish to implement section 112(g) through its preconstruction permit program and can demonstrate that an alternative means of implementing section 112(g) exists, the EPA may, in the final action approving South Carolina's part 70 program, approve the alternative instead. Overall, section 112(l) provides the authority for approval for the use of State air programs to implement 112(g), and title V and section 112(g) provide authority for this limited approval because of the direct linkage between implementation of section 112(g) and title V.

This use of the preconstruction program for this approval only extends until such time as the State is able to adopt regulations consistent with any regulations promulgated by EPA to implement section 112(g). Accordingly, EPA is proposing to limit the duration of this approval to a reasonable time following promulgation of section 112(g) regulations so that South Carolina, acting expeditiously, will be able to adopt regulations consistent with the section 112(g) regulations. EPA proposes here to limit the duration of this approval to 12 months following promulgation by EPA of section 112(g) regulations.

c. Program for straight delegation of section 112 standards as promulgated. Requirements for approval, specified in 40 CFR 70.4(b), encompass section 112(l)(5) requirements for approval of a program for delegation of section 112 General Provisions Subpart A and standards as promulgated by EPA as they apply to part 70 sources. Section 112(l)(5) requires that the State's program contain adequate authorities, adequate resources for implementation, and an expeditious compliance schedule, which are also requirements under part 70. Therefore, EPA is proposing to grant approval under section 112(l)(5) and 40 CFR 63.91 to South Carolina for its program mechanism for receiving delegation of all existing and future section 112(d) standards for both part 70 and non-part 70 sources, and section 112 infrastructure programs such as those programs authorized under sections 112(i)(5), 112(g), 112(j), and 112(r). The proposed approval of South Carolina's delegation mechanism extends to those standards and infrastructure programs that are unchanged from Federal rules as promulgated. In addition, EPA is proposing delegation of all existing standards and programs under 40 CFR parts 61 and 63 for part 70 sources and

non-part 70 sources.[1] South Carolina has informed EPA that it intends to accept the delegation of section 112 standards on an automatic basis. The details of this delegation mechanism are set forth in an addendum to the South Carolina title V program submittal.

d. Commitment to implement title IV of the Act. DHEC has committed to take action, following promulgation by EPA of regulations implementing sections 407 and 410 of the Act, or revisions to either part 72 or the regulations implementing sections 407 or 410, to either incorporate the revised provisions by reference or submit, for EPA approval, DHEC regulations implementing these provisions. DHEC committed to adopt and submit to EPA the above referenced regulations no later than January 1, 1995.

B. Proposed Actions

1. Full Approval

EPA proposes to fully approve the operating permits program submitted to EPA from the State of South Carolina on November 15, 1993.

2. Program for Straight Delegation of Section 112 Standards

As discussed above in section II.A. 4.c., EPA is proposing to grant approval under section 112(l)(5) and 40 CFR 63.91 to South Carolina for its program mechanism for receiving delegation of all existing and future section 112(d) standards for both part 70 and non-part 70 sources, and infrastructure programs under section 112 that are unchanged from Federal rules as promulgated. In addition, EPA proposes to delegate existing standards under 40 CFR parts 61 and 63 for both part 70 sources and non-part 70 sources.

III. Administrative Requirements

A. Request for Public Comments

EPA requests comments on all aspects of this proposed full approval. Copies of the State's submittal and other information relied upon for the proposal are contained in a docket maintained at the EPA Regional Office. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this proposal. The principal purposes of the docket are:

(1) To allow interested parties a means to identify and locate documents so that they can effectively participate in the approval process; and

(2) To serve as the record in case of judicial review. EPA will consider any comments received by February 23, 1995.

B. Executive Order 12866

The Office of Management and Budget has exempted this regulatory action from executive order 12866 review.

C. Regulatory Flexibility Act

EPA's actions under section 502 of the Act do not create any new requirements, but simply address operating permits programs submitted to satisfy the requirements of 40 CFR part 70. Because this action does not impose any new requirements, it does not have a significant impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7671q.

Dated: January 9, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

[FR Doc. 95–1738 Filed 1–23–95; 8:45 am]

BILLING CODE 6560–50–F

[1] The radionuclide National Emission Standards for Hazardous Air Pollutant (NESHAP) is a section 112 regulation and therefore, also an applicable requirement under the State operating permits program for part 70 sources. There is not yet a Federal definition of ''major'' for radionuclide sources. Therefore, until a major source definition for radionuclide is promulgated, no source would be a major section 112 source solely due to its radionuclide emissions. However, a radionuclide source may, in the interim, be a major source under part 70 for another reason, thus requiring a part 70 permit. EPA will work with the State in the development of its radionuclide program to ensure that permits are issued in a timely manner.

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40 CFR Part 281

[FRL–5142–9]

The State of Texas; Final Approval of State Underground Storage Tank Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of tentative determination on application of texas for final approval, public hearing and public comment period.

SUMMARY: The Texas Natural Resource Conservation Commission (TNRCC, Texas or the State) has applied for final approval of its underground storage tank program under Subtitle I of the Resource Conservation and Recovery Act (RCRA). The Environmental Protection Agency (EPA) has reviewed Texas' application and has made the tentative decision that its underground storage tank program satisfies all of the requirements necessary to qualify for final approval. Thus, EPA intends to grant final approval to the State to operate its program in lieu of the Federal program. Texas' application for final approval is available for public review and comment, and a public hearing will be scheduled to solicit comments on the application, if requested.

DATES: A public hearing will be scheduled. Interested parties may call the US EPA, Region 6, Office of Underground Storage Tanks, at (214) 665–6756 between the hours of 8:00 a.m. and 4:00 p.m. Central Standard Time, from February 23, 1995 through February 28, 1995 to learn the date and time of the scheduled public hearing. If it is held, Texas will participate in the public hearing scheduled by EPA on this subject. All comments on Texas' final approval application and all requests to present oral testimony must be received by the close of business on February 23, 1995. EPA reserves the right to cancel the scheduled hearing should there be no significant public interest. Those informing EPA of their intention to testify will be notified of the cancellation.

ADDRESSES: Copies of Texas' final approval application are available for inspection and copying, 9:00 a.m.–4:00 p.m., at the following addresses: Texas Natural Resource Conservation Commission Records and Copy Center, Park 35 Building ''D'', Room 190, 12118 North IH–35, Austin, Texas 78753, Phone: (512) 239–2920; US EPA Headquarters, Office of Underground Storage Tanks Docket Clerk, 401 M Street, SW, Room 2616, Washington, DC 20460, Phone: (202) 260–9720; and US EPA, Region 6 Library, 12th Floor, 1445 Ross Avenue, Dallas, Texas 75202, Phone: (214) 665–6424. The location for the scheduled hearing can be obtained by calling the US EPA, Region 6, Office of Underground Storage Tanks, Phone: (214) 665–6756, between 8:00 a.m. and 4:00 p.m. Central Standard Time from February 23, 1995 through February 28, 1995. Written comments and requests to present oral testimony should be sent to Joe Womack, Texas Program Officer, Office of Underground Storage Tanks, US EPA, Region 6, Mailcode: 6H-A, 1445 Ross Avenue, Dallas, Texas 75202, Phone: (214) 665–6586.

FOR FURTHER INFORMATION CONTACT: Texas Program Officer, Underground Storage Tank Program, Attention: Joe Womack, US EPA, Region 6, Mailcode: 6H–A, 1445 Ross Avenue, Dallas, Texas 75202, Phone: (214) 665–6586.